

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1264

Introduced by Assembly Member Eng

February 23, 2007

An act to amend Section 68616 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL’S DIGEST

AB 1264, as amended, Eng. Courts: delay reduction: ~~complaints.~~
status conferences.

~~The~~

(1) The Trial Court Delay Reduction Act requires the Judicial Council to adopt standards of timely disposition for the processing and disposition of civil and criminal actions. Existing law prohibits delay reduction rules from requiring a period for service of a complaint that is less than 60 days after filing or a period for conduct of a status conference or similar event that is less than 30 days after service of the first responsive pleadings or the expiration of a stipulated continuance, as specified. Existing law also prohibits delay reduction rules from requiring a period for referral of a case to arbitration that is less than 210 days after the filing of the complaint, as specified.

This bill would, instead, prohibit delay reduction rules from requiring a period for service of a complaint that is less than 90 days after filing. require the court, if it sets a hearing for an order to show cause as to the status of service, to consider a factual affidavit filed by plaintiff or counsel setting forth the status of efforts to serve the complaint, to continue the hearing for a reasonable period of time upon receipt of the affidavit, and to order the hearing to go off calendar if service is

effected before the hearing. The bill would restrict the court from setting any status conference other than the initial case management conference and the pretrial status conference, unless the court determines that an additional conference is necessary in a particular case or the parties request a status conference. The bill also would prohibit the court from conducting a postmediation status conference if the parties have participated in mediation and the mediator files a notice of agreement or nonagreement at least 5 days before the hearing.

The bill would provide that, upon the filing of a notice of settlement, the parties shall have a reasonable time within which to conclude the settlement, and would require the court, if it sets a hearing concerning a dismissal, to accept a factual affidavit of a party or counsel for a party advising the court of the status of the settlement and the date by which a dismissal is expected to be filed, as specified.

(2) Existing law prohibits delay reduction rules from requiring the dismissal of unnamed defendants prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

This bill would likewise prohibit delay reduction rules from requiring the severance of unnamed defendants prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 68616 of the Government Code is
2 amended to read:
3 68616. Delay reduction rules shall not require shorter time
4 periods than as follows:
5 (a) Service of the complaint within ~~90~~ 60 days after filing.
6 Exceptions, for longer periods of time, (1) may be granted as
7 authorized by local rule and (2) shall be granted on a showing that
8 service could not reasonably be achieved within the time required
9 with the exercise of due diligence consistent with the amount in
10 controversy. *If the court sets a hearing for an order to show cause*
11 *as to the status of service, the court shall consider a factual*
12 *affidavit filed by plaintiff or counsel setting forth the status of*
13 *efforts to serve the complaint. Upon receipt of the affidavit in lieu*

1 *of a hearing, the court shall continue the hearing for a reasonable*
2 *period of time and shall order the hearing to go off calendar if*
3 *service is effected before the hearing, with proof of service filed*
4 *with the court.*

5 (b) Service of responsive pleadings within 30 days after service
6 of the complaint. The parties may stipulate to an additional 15
7 days. Exceptions, for longer periods of time, may be granted as
8 authorized by local rule.

9 (c) Time for service of notice or other paper under Sections
10 1005 and 1013 of the Code of Civil Procedure and time to plead
11 after service of summons under Section 412.20 of the Code of
12 Civil Procedure shall not be shortened except as provided in those
13 sections.

14 (d) Within 30 days of service of the responsive pleadings, the
15 parties may, by stipulation filed with the court, agree to a single
16 continuance not to exceed 30 days.

17 It is the intent of the Legislature that these stipulations not detract
18 from the efforts of the courts to comply with standards of timely
19 disposition. To this extent, the Judicial Council shall develop
20 statistics that distinguish between cases involving, and not
21 involving, these stipulations.

22 (e) No status conference, or similar event, other than a challenge
23 to the jurisdiction of the court, may be required to be conducted
24 sooner than 30 days after service of the first responsive pleadings,
25 or no sooner than 30 days after expiration of a stipulated
26 continuance, if any, pursuant to subdivision (d). *The initial case*
27 *management conference and the pretrial status conference shall*
28 *be the only status conferences set by the court unless the court*
29 *determines that an additional conference is necessary in a*
30 *particular case or a status conference is requested by the parties.*

31 (f) Title 4 (commencing with Section 2016.010) of Part 4 of the
32 Code of Civil Procedure shall govern discovery, except in
33 arbitration proceedings.

34 (g) No case may be referred to arbitration prior to 210 days after
35 the filing of the complaint, exclusive of the stipulated period
36 provided for in subdivision (d). No rule adopted pursuant to this
37 article may contravene Sections 638 and 639 of the Code of Civil
38 Procedure. *The court shall not conduct a postmediation status*
39 *conference if the parties have participated in mediation and the*

1 mediator files a notice of agreement or nonagreement at least five
2 days before the hearing.

3 (h) Unnamed (DOE) defendants shall not be dismissed or
4 severed prior to the conclusion of the introduction of evidence at
5 trial, except upon stipulation or motion of the parties.

6 (i) Upon the filing of a notice of settlement, the parties shall
7 have a reasonable time within which to conclude the settlement.
8 If the court sets a hearing concerning a dismissal, the court shall
9 accept a factual affidavit of a party or counsel for a party advising
10 the court of the status of the settlement and the date by which a
11 dismissal is expected to be filed. The court shall continue any
12 hearing to allow the parties the additional time required to
13 complete the settlement. If the settlement is conditioned upon court
14 approval, the court shall not set an order to show cause hearing
15 prior to the hearing to approve the settlement, provided the
16 appropriate papers to seek court approval have been filed.

17 ~~(i)~~

18 (j) Notwithstanding Section 170.6 of the Code of Civil
19 Procedure, in direct calendar courts, challenges pursuant to that
20 section shall be exercised within 15 days of the party's first
21 appearance. Master calendar courts shall be governed solely by
22 Section 170.6 of the Code of Civil Procedure.

23 ~~(j)~~

24 (k) This section applies to all cases subject to this article which
25 are filed on or after January 1, 1991.

26 ~~(k)~~

27 (l) This section shall become operative on January 1, 2004.

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